

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

IDENIX PHARMACEUTICALS LLC and  
UNIVERSITA DEGLI STUDI DI  
CAGLIARI,

Plaintiffs,

v.

GILEAD SCIENCES, INC.

Defendant.

C.A. No. 14-846-LPS

**JOINT STATUS REPORT**

Pursuant to the Court's Oral Order (D.I. 573), the parties submit this Joint Status Report to advise the Court with respect to the following matters for the hearing on post-trial motions currently scheduled for August 31, 2017. On May 24, 2017, the parties conducted a meet-and-confer teleconference to discuss the issues to be addressed in this Report.

**(1) Stay of Idenix's Post-Trial Motions for Ongoing Royalties and Royalties**

**Regarding Epclusa®.** Consistent with Gilead's prior request [D.I. 536 at 25], the parties now jointly request that the Court stay consideration of Idenix's post-trial motions for (i) ongoing royalties on Sovaldi® and Harvoni® and (ii) all royalties on Epclusa® (i.e., damages through the date of judgment and ongoing royalties) until after the conclusion of any appeal in this case.<sup>1</sup> (See D.I. 538 at 17-23; D.I. 555 at 13-24; D.I. 566 at 8-12.) Therefore, neither party requests the

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<sup>1</sup> Under 28 U.S.C. § 1292(c)(2), a judgment of patent infringement that "is final except for an accounting" is final and appealable. Recent case law has confirmed that formal severance of such accounting issues into a separate case is not required to permit an appeal. *See Cave Consulting Grp., LLC v. OptumInsight, Inc.*, 2017 U.S. App. LEXIS 6089, at \*3 (Fed. Cir. Mar. 31, 2017); *see also Comcast IP Holdings I LLC v. Spring Commc'ns Co.*, No. 12-cv-0205-RGA, 2015 WL 4730899, at \*10 (D. Del. Aug. 10, 2015).

opportunity to present live witness testimony or other additional evidence at the upcoming hearing, unless the Court declines to accept the parties' agreement to stay.

**(2) Idenix's Remaining Post-Trial Motions.** With respect to Idenix's remaining post-trial motions, *i.e.*, for enhanced damages, attorneys' fees, pre-judgment interest, supplemental damages for Sovaldi® and Harvoni® through the date of judgment, and post-judgment interest, Idenix believes that these issues are clear and intends to rest on its papers on these issues. (D.I. 538, 566.) Idenix will be prepared to address during the hearing any questions the Court may have regarding these issues and respond to any arguments Gilead may present.

**(3) Gilead's Post-Trial Motions.** The parties intend to argue Gilead's motions for JMOL or, in the alternative, a new trial.

**(4) Length of Hearing (presuming no live testimony).** Idenix requests that the Court allot 60 minutes per side for presentations at the hearing. Given the complexity of the issues and the stakes in the case, Gilead requests that the Court allot 120 minutes per side.

**(5) Date of Hearing.** Gilead's counsel has a conflict on August 31, 2017, and requests that the Court reschedule the hearing to an available date in September if possible. Idenix does not oppose rescheduling the hearing to an alternative date as the Court's schedule permits.

ASHBY & GEDDES

*/s/ John G. Day*

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